

Fact Sheet: SB 251

ADA Compliance

AUTHOR: SENATOR RICHARD ROTH

INTENT

This bill will help ensure individuals with disabilities have a full and fair opportunity to access facilities and services in California and further ensure that business owners and operators have the education and training necessary to comply with federal and state disability access law and regulation.

BACKGROUND

The Americans with Disabilities Act of 1990 (ADA) and California civil rights laws prohibit discrimination against individuals with disabilities and requires all public accommodations and commercial facilities to be accessible to individuals with disabilities. Businesses must comply with accessibility standards and remove barriers to access, or potentially face civil litigation.

SUMMARY

This bill:

1. Allows any business with 100 or fewer employees that has hired a CASp (Certified Access Specialist) and has been inspected for ADA access compliance, 120 days from the date of the CASp inspection to correct any ADA violation specified, without statutory penalties. Claims for actual damages and injunctive relief are excluded from the 120 day moratorium.
2. Allows any small business 15 days from date of written notice or lawsuit to correct certain ADA violations, without statutory penalties, limited to:
 - a. Outside and interior signage issues
 - b. Parking lot paint stripe color and/or condition
 - c. Detectable warning surfacesClaims for actual damages and injunctive relief are excluded from the 15-day moratorium.
3. Requires city and county building departments to provide educational materials to businesses regarding ADA requirements and expedite the permit process for any business (with 100 or fewer employees) attempting to correct ADA violations as noted above.

4. Directs the California Commission on Disability Access to:
 - a. Increase the number of trained and certified CASps in California
 - b. Educate and train businesses regarding ADA access standards and requirements
5. Directs the State Architect to:
 - (a) develop a web based directory of CASp's to assist building owners and tenants in locating or hiring a CASp; and
 - (b) post a list of businesses that have received a CASp inspection and the date of that inspection (proposed amendment)
6. Provides tax credits, with a 5 year sunset, as follows:
 - Ten percent of eligible access expenditures up to \$10,250 annually for small businesses

What this bill does not do:

1. It does not allow a business to avoid a lawsuit or statutory penalties by hiring a CASp after receipt of a lawsuit or other written notice of violation
2. It does not allow a business that has retained a CASp and received a CASp inspection report to delay the start of any "fix" until after service of a lawsuit or written demand. The 120-day moratorium begins from the date of the CASp inspection
3. It does not diminish the right of any individual with a disability to a full and fair opportunity to access facilities and services

STATUS

Sent to Governor for signature.

STAFF CONTACT

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SUPPORT

California Chamber of Commerce
Consumer Attorneys of California, et al.

OPPOSE

ACLU (Oppose unless amended)
Disability Rights California, et al.